

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015100852

ORDER DENYING REQUEST FOR
CONTINUANCE AND SETTING
CONTINUED MEDIATION DATE

On November 17, 2015, the Office of Administrative Hearings granted the parties' joint continuance request, and set the matter for mediation on December 22, 2015, prehearing conference for 3:00 p.m., on March 7, 2016, and hearing on March 15 and 16, 2016. The mediation took place on December 22, 2015, and the parties did not resolve this matter.

On January 11, 2016, the parties filed a request for a second mediation and to continue the dates in this matter with OAH, based upon Parents not understanding the mediation and hearing process.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied as to continuing the prehearing and hearing dates, but granted as to continued mediation date. The parties established good cause for a second mediation date based on Parents not understanding the process when the mediation was conducted. However, a continuance of the prehearing and hearing dates is not warranted as those will occur a month after the new mediation date. Therefore, this matter will be set as follows:

Mediation: February 4, 2016, at 9:30 AM

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing “good cause” to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: January 13, 2016

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings